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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,867	03/06/2002	David Anthony Gold	09793597-0073	6963

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EXAMINER

COMSTOCK, DAVID C

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,867

Applicant(s)

GOLD, DAVID ANTHONY

Examiner

David Comstock

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-26, 29 and 30 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 14-16, 20, 22, and 24-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Townsend (6,405,736).

Townsend discloses a hair extension 10 comprising a connecting support tape 22 having an adhesive face and a plurality of extensions 12 (see Fig. 3). The extensions comprise several hairs and are connected by a stitched fixing element 16. The extensions are spaced apart, aligned, and substantially parallel with their fixing element on the support tape (see Figs. 1 and 3). The fixing element and connecting support tape are sewn together or otherwise attached together (see col. 5, lines 17-20).

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The connecting support tape has protective tape 24 on it before application. Such protective tape is well-known to protect the adhesive on the connecting tape from drying out and from being exposed to debris. The hairs may be of any desired color (see col. 4, lines 59-62).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-19, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend (6,405,736).

Townsend discloses the claimed invention except for the support tape being formed from a transparent heat-resistant material, the fixing elements being formed from a thermoplastic polyester, polyamide, or polyurethane, or the adhesive having any specific properties. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the support tape from a transparent heat-resistant material, to form the the fixing elements from a thermoplastic polyester, polyamide, or polyurethane, or to select an adhesive having a desired known property, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend (6,405,736) in view of Reinstein et al. (6,131,585).

Townsend discloses the claimed invention except for the decorative elements. Reinstein et al. disclose a similar device 44 having decorative elements 14 attached to a fixing element in order to provide a decorative appearance to the user (see Figs. 1 and 3 and col. 1, lines 19 and 20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hair extension of Townsend with decorative elements on the fixing element, in view of Reinstein et al., in order to provide a decorative appearance to the user.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend (6,405,736) in view of Barrington (5,107,867).

Townsend discloses the claimed invention except for the gripper device. Barrington discloses a similar device 22 having a gripper device 34 to apply heat and pressure to the hair extension to bond it to the user's hair. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hair extension of Townsend with a gripper device, in view of Barrington, in order to apply heat and pressure to the adhesive and facilitate the application of the extension.

Allowable Subject Matter

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Comstock whose telephone number is (703) 308-8514.

OC

D.C. Comstock
12 December 2003



EDUARDO C. ROBERT
PRIMARY EXAMINER